STATE OF NEW YORK

5180

2023-2024 Regular Sessions

IN SENATE

February 24, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the state finance law, in relation to establishing the interagency committee on sustainability and green procurement

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 160 of the state finance law is amended by adding a 2 new subdivision 5-a to read as follows:

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5-a. "Public authority" means a public authority or public benefit corporation created by or existing under any state law, a majority of whose members are appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

§ 2. The state finance law is amended by adding a new section 161-a to read as follows:

§ 161-a. Interagency committee on sustainability and green procure-11 ment. 1. (a) There is hereby established an interagency committee on sustainability and green procurement. The committee shall be comprised of the director of the budget, the commissioner, the commissioner of 14 environmental conservation, the commissioner of health, the commissioner 15 of economic development, the president of the urban development corporation, the commissioner of transportation, the president of the environmental facilities corporation, the president of the New York state energy, research and development authority, the chair of the power 19 authority of the state of New York, and the executive director of the 20 dormitory authority of the state of New York. The commissioner and the commissioner of environmental conservation shall serve as co-chairs of 22 the committee.

(b) Members of the committee may designate an executive staff member 23 24 to represent them and participate on the committee on their behalf. A 25 majority of the members of the committee shall constitute a quorum, and

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 <u>all actions and recommendations of the committee shall require approval</u>
2 <u>of a majority of the total members of the committee.</u>

- 2. (a) The committee, no later than September first, two thousand twenty-four, and annually thereafter, shall select a minimum of three "priority categories" of commodities, services or technology, and at least twelve "priority commodities, services and technology" within each of the priority categories, for which the committee shall develop "green procurement lists" and "green procurement specifications" for use by state agencies and public authorities in the procurement of commodities, services and technology. The committee shall focus on commodities, services and technology that reasonably will: (i) reduce or eliminate the health and environmental risks from the use or release of toxic substances; (ii) minimize risks of the discharge of pollutants into the environment; (iii) minimize the volume and toxicity of packaging; (iv) maximize the use of recycled content and sustainably managed renewable resources; and (v) provide other environmental and health benefits.
- (b) The committee, no later than December first, two thousand twenty-four, shall develop: (i) procurement specifications to be used for the development and issuance of new contracts and new solicitations for priority commodities, services and technology; and (ii) procurement lists of priority commodities, services and technology that are available under existing procurement arrangements that satisfy the requirements of this section.
- (c) In developing the procurement lists and procurement specifications required by this subdivision, the committee shall consider the following factors: (i) protection of the public health and the environment, including the health of children and other vulnerable populations; (ii) avoidance of risks from the use or release of toxic substances; (iii) pollution reduction and prevention; (iv) sustainable resource management and use, and sustainable manufacturing and production processes; (v) reduction of greenhouse gases; (vi) the use of renewable resources, remanufactured components and recycled content; (vii) waste reduction, recyclability and compostability; (viii) quality, durability and utility; (ix) minimizing adverse impacts throughout a commodity's or technology's life cycle; (x) cost; (xi) extended producer liability; and (xii) legal and regulatory requirements applicable to the use and procurement of commodities, services and technology.
- (d) The committee may review the priority categories, priority commodities, services and technology, procurement lists and procurement specifications periodically and revise or supplement them as appropriate in a manner consistent with the requirements of this section.
- (e) The committee shall establish specific goals to achieve reasonable reductions in the amount of solid waste generated and paper consumed annually by state agencies and public authorities. The committee shall also develop and implement strategies to assist state agencies and public authorities to achieve such reduction goals.
- 47 <u>3. (a) Each state agency and public authority shall develop and imple-</u>
 48 <u>ment a sustainability and environmental stewardship program, which shall</u>
 49 include:
 - (i) specific projects, programs and policies designed to achieve compliance with the requirements of this section; and
- (ii) specific projects, programs and policies designed to reduce the public health and environmental impacts of the activities and operations of the agency or authority, including: (1) the reduction or elimination of the use and generation of toxic substances, pollution and waste; (2) the reduction, reuse, recycling and composting of solid waste; (3)

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increasing energy efficiency; (4) increasing the use of renewable energy sources; (5) conserving water and other natural resources; and (6) maximizing the use of environmentally preferable or green commodities, services and technology.

- (b) Commencing no later than July first, two thousand twenty-four, all copy paper, janitorial paper and other paper supplies purchased by each state agency or public authority shall be composed of one hundred percent post-consumer recycled content to the maximum extent practicable, and all copy and janitorial paper shall be process chlorine-free to the extent practicable, unless such products do not meet required form, function or utility, or the cost of the product is not competitive.
- (c) Commencing no later than July first, two thousand twenty-four, all state agency and public authority publications shall be printed on one hundred percent post-consumer recycled content paper. Where paper with one hundred percent post-consumer recycled content is not available, or does not meet required form, function and utility, paper procurements shall use post-consumer recycled content to the extent practicable. Non-recycled content shall be derived from a sustainably-managed renewable resource to the extent practicable, unless the cost of the product is not competitive.
- (d) State agencies and public authorities shall rely on and use the procurement lists and specifications issued by the committee when developing new solicitations and contracts for the procurement of commodities, services and technology, and for the procurement of commodities, services and technology under existing contracts, unless the head of the agency or authority determines: (i) that such commodities, services or technology will not meet required form, function or utility; (ii) the cost of the commodities, services or technology is not competitive; or (iii) there is an emergency or other compelling public health or safety reason not to purchase such commodities, services or technology. Such form, function, utility or other determination shall be presented in the procurement record, and notice of the determination shall be provided to the committee chairs.
- (e) All state agencies and public authorities shall, to the extent practicable: (i) implement effective programs to source separate recyclable materials, including paper, metal, glass and plastic, that will maximize materials recovery; (ii) implement effective programs to reduce waste; (iii) use locally available compost, mulch and soil amendments produced from secondary materials; and (iv) utilize secondary materials in construction.
- 4. (a) State agencies and public authorities, no later than September first, two thousand twenty-four, shall assign an employee to serve as a sustainability and green procurement coordinator. Coordinators shall be given full management support and provided with the necessary resources to enable the agency or authority to comply with this order.
- (b) The committee shall design and implement training and outreach programs for coordinators and assist them with the training of appropriate staff, vendors and contractors.
- (c) The commissioner, no later than September first, two thousand twenty-four, shall select an employee to serve as director of green procurement, who shall assist the commissioner in carrying out his or her duties under this section.
- (d) The office of general services, the department of environmental conservation, the environmental facilities corporation, and the New York state energy research and development authority are authorized to assist state agencies and public authorities in complying with this section,

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including through the development and implementation of sustainability and environmental stewardship programs.

- 5. (a) The committee, no later than December first, two thousand twenty-four, shall develop a format for a progress report to be used by state agencies and public authorities to inform the committee of: (i) the progress each agency and public authority has made toward achieving the goals described in or established pursuant to this section; (ii) the effectiveness of the procurement lists and specifications; and (iii) the specific sustainability projects that have been implemented and the effectiveness of such programs.
- (b) Each state agency and public authority, no later than March first, two thousand twenty-five, and on March first each year thereafter, shall submit a progress report to the committee in the form and containing the information specified by the committee. At a minimum, such report shall describe the agency or public authority's efforts regarding waste reduction and recycling activities, recycled products procurement, quantities of waste generated and materials recycled, incentives and disincentives to waste reduction and recycling, and recommendations for additional measures to encourage efficient use of the state's resources.
- (c) The committee, on or before June first, two thousand twenty-five, and on June first each year thereafter, shall submit a report to the governor, the speaker of the assembly, and the temporary president of the senate which shall compile the information submitted by state agencies and public authorities pursuant to this subdivision and report on progress made on the implementation of this section.
- 6. There is hereby established a sustainability and green procurement advisory council, which shall consist of eleven members, five appointed by the governor, three appointed by the speaker of the assembly, and three appointed by the temporary president of the senate who have experience in the fields of green procurement, public health, waste prevention and recycling, energy efficiency, workplace safety, labor 32 relations, environmental protection, environmental justice, or chemical manufacturing. The governor shall select a chair of the council from 33 34 among its members. The council shall meet at the times requested by the 35 committee and provide such advice and assistance as the committee may require.
 - § 3. This act shall take effect immediately.